IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 995 OF 2004

The State of Maharashtra & Anr.... Petitioners.

Versus

Padu Rama Ghodvinde & Ors..... ... Respondents.

Mr. N. P. Deshpande, AGP for the Petitioners.

None for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 18TH MARCH, 2005.

P.C.:

By this petition, the State challenges the order dated 31st August, 2002 passed by the Additional Commissioner (Land), Konkan Division, Mumbai, upholding the order of the Deputy Collector, Private Forests (Acquisition), Thane releasing the land from acquisition under the Maharashtra Private Forests (Acquisition) Act, 1975.

2. The land has been ordered to be released from the acquisition in view of Section 3 sub-section (2) of

the aforesaid Act, which reads as follows:

> 3(2) Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as is held by an occupant or tenant and is lawfully under cultivation on the appointed day and is not in excess of the ceiling area provided by section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, for the time being in force or any building or structure standing thereon or appurtenant thereto.

3. Admittedly, the land in question admeasures 13 H. 28 R and 6 prati which amounts to less than 54 Acres. In this view of the matter, the impugned order does not suffer from any infirmity and hence the writ petition is dismissed.

Sd/-

(**S. A. BOBDE, J.**)